



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

212501



December 2004  
**FILED**

DEC 30 2004



The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001

RE: Providence and Worcester Railroad Company  
Abandonment in State of Connecticut - Docket No. AB-254 (Sub No. 7X)

Dear Secretary Williams:

This request is filed on behalf of the Department of Environmental Protection, which is an agency of the State of Connecticut, hereinafter referred to as Proponent.

Proponent requests issuance of a conditional Public Use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization of that approximate 3.4 mile portion of the Southbridge Running Track (the Line) situated within the State of Connecticut between MP 1.39 +/- and MP 4.8 +/-.

1. Request for Public Use Condition

Proponent asks that the STB make a conditional finding that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

A. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the corridor would make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to assemble and review title information, perform appropriate due diligence and negotiate an agreement with the carrier concerning transfer of the Line.

B. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the reasons indicated above.

2. Request for Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use condition sought above, Proponent also requests that the STB issue a Notice of Interim Trail Use or a Certificate of Interim Trail Use (as appropriate), as the State of Connecticut, by and through its

<sup>1</sup> The "condition" attached to this request is based on the parties entering into an agreement to transfer ownership of the Line. To date, the State of Connecticut and the Providence Worcester Railroad Company do not have an agreement that transfers ownership of the Line to the State of Connecticut.

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Department of Environmental Protection, is prepared to assume responsibility for the portion of the property situated within the State of Connecticut only if the parties come to an agreement to transfer title to the subject railroad property.

#### STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under Section 8(b) of the National Trails System Act, 16 U.S.C. 1247(d) and 49 CFR 1152.29, the State of Connecticut, by and through the Department of Environmental Protection, is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (to the extent the State of Connecticut may be held liable, and, in any event, to indemnify the Railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by the Providence and Worcester Railroad Company. Notwithstanding the foregoing, the State of Connecticut shall not assume any responsibility for management, legal liability, and payment of the taxes for the property unless and until the parties have negotiated and entered into an agreement for interim trail use. Nothing in this paragraph or letter waives the sovereign immunity of the State of Connecticut.

The property, known as the Southbridge Running Track (the Line), extends from railroad milepost 0.18 in Webster, MA to railroad milepost 10.98 in Southbridge, MA, a distance of 10.80 miles, in Worcester County, MA and Windham County, CT. The State of Connecticut proposes to assume financial responsibility, for the following approximate 3.4 mile portion of the Line located in Windham County, CT from milepost 1.39 in Thompson, CT to milepost 4.8 in Quinebaug, CT. Again, the State of Connecticut shall not assume any financial responsibility unless and until the parties have negotiated and entered into an agreement for interim trail use.

The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-254 (Sub No 7X).

A map depicting the right-of-way described above in Connecticut, under the date of October 20, 2004, is attached.

Proponent acknowledges that use of the right-of-way is subject to the users continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon the Providence and Worcester Railroad Company by U.S. Mail, postage pre-paid, first class, this 23rd day of December 2004.

Respectfully submitted,



David K. Leff  
Deputy Commissioner

Enclosure

cc: John W. Spillane,  
Counsel, Providence & Worcester Railroad Company  
Ann Silverstein,  
Associate General Counsel, Providence & Worcester Railroad Company  
Matt Levine, Assistant Attorney General, State of Connecticut

